

Public Hearing – March 4, 2010

I would like to discuss the Montana situation.

From the onset of the failures of the soil treatment facility in Montana, I said I was responsible for the problems, I stand by that statement.

The process has not been, nor is the issue. The process works. Upon closure of the soil treatment facility in Montana the final tests related to TPH concentrations confirmed that the treatment was still successful.

It would not be accurate to say that we did everything right at Fallon County.

What is accurate is that as a result of the experience and knowledge gained from both our successes and failures in Montana, we have taken steps to address, respond, correct and insure to the greatest degree possible that our failures will not be repeated.

Mistakes were made in that the lines of responsibility were not clearly drawn. This resulted in an untenable business model.

A big part of this process is structuring this facility so that only one party is responsible for it.

In Conclusion

Recognizing that which limits or is a weakness in one's self and taking the steps to address, strengthen, and correct them is a proper response.

While I regret the errors I made, I did not throw my hands in the air and walk away from the Montana soil treatment facility, I stayed involved until closure in the project.

My desire is to be a good and responsive neighbor and to provide a beneficial and improved process to my clients.

The North Dakota Health Department has justly noted the issues involved in the failure of the soil treatment facility in Montana. The draft permit is quite restrictive and short term in nature.

I welcome the opportunity to prove myself.

Dale Leivestad 3-4-10
Dale Leivestad



Pam Hestekin

Thank you for letting me voice our opposition to the oil waste composting site south of Marmarth.

My husband, Don, and I live in this township, in section 26, 3 ½ miles southeast of the proposed site.

I have done alot of research since this process began 3 years ago, and don't like what I found. We have read the draft of the permit and also the permit application review. We feel there are a lot of vague issues with this operation.

One of our concerns is the radioactive content and ~~heavy~~ lead content in the waste that will be trucked to this site. We keep hearing how safe it is; but how much of it will become airborne? No matter what some will.

We are also concerned about the water, this site is on a hill between 2 drainage ways into the Little Missouri River. We want to know where is the guarantee to keep our scenic river from becoming contaminated. The wells in this area are shallow or spring fed, and the previous operation in Baker had



contamination as deep as 900 feet. So, I ask you, on
a gumbo hill with fractures how can he protect these
water sources?

Our feelings are, if Montana doesn't want it;
why would North Dakota open their arms and
welcome this operation!

I never thought I would ever use the phrase, not
in my back yard; but at this time we feel it is an appropriate one to
use.

Samuel R. Hestekin
Donald C. Hestekin

D&M Water Service, Inc

Petrocomp

Precision Maintenance & Machine



PO Box 848
21 County Road #603
Baker, MT 59313

Office: (406)778-3107
Dispatch: (406)978-3107
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MACHINE WORK

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REMEDIATION

March 10, 2010

Scott A. Radig, Director
North Dakota Department of Health
Division of Waste Management
918 E. Divide Ave., 3rd Floor
Bismarck, ND 58501-1947

Re: Comments on Draft Permit #0357 – Petrocomp, a division of D&M Water Service, Inc.

Mr. Radig,
Please see the attached comments from Dr. L. Max Scott regarding the document entitled "NORTH DAKOTA DEPARTMENT OF HEALTH PUBLIC NOTICE OF OPPORTUNITY TO COMMENT ON DRAFT PERMIT FOR A SOLID WASTE FACILITY UNDER THE NORTH DAKOTA SOLID WASTE MANAGEMENT RULES."

General Comment: In several place references is made to TENORM. TENORM is not defined and it could include radionuclides other than Ra-226, Ra-228 and Lead-210. Petrocomp suggest that the following be substituted for TENORM "Ra-226 plus Ra-228 or Lead-210".

General Comment: There are inconsistencies regarding the expression of the 5 pCi/gm limit.

Paragraph F.6.d "exceeding 5 pCi/gm"

Paragraph F.6 last paragraph before F.7 "equal or exceed 5 pCi/gm"

Paragraph F.9 "at or above 5 pCi/gm"

Paragraph I.1 "less than 5 pCi/gm"

To avoid confusion Petrocomp suggest that in all cases the limit to expressed as greater than 5 pCi/gm.

Paragraph F5: Waste streams which must be analyzed form Lead-210.

Petrocomp suggest that the waste streams be specifically identified. It is our understanding that the potential for significant build-up of Lead-210 is limited to natural gas operations. We suggest the following: Analysis for Lead-210 will be required on waste generated from pigging operations on gas production and transmission lines and natural gas operations downstream from gas/oil separators. Petrocomp believes the



requirements in paragraph F.7 will be adequate to monitor for Lead-210 in waste streams which are centrifuged.

Paragraph F6: If the total laboratory measured radium activities or Lead-210 activities exceed 5 pCi/gm.

"total laboratory measured radium" could be construed to include Ra-224. Petrocomp suggests that "total laboratory measured Ra-226 plus Ra-228" be substituted for "total laboratory measured radium". It is not clear that the 5 pCi/gm is net with the Ra-226 and Ra-228 contributions from natural soil background and from those materials utilized in the composting process subtracted. Petrocomp suggest that the following be inserted after 5pCi/gm "net with the Ra-226 and Ra-228 contributions from natural soil background and from those materials utilized in the composting process subtracted".

A cursory review of the regulations of other states which have promulgated specific TENORM regulations revealed that none of the states regulates Lead-210 at a concentration of 5 pCi/gm. In fact several states exempt concentrations of "other radionuclides" at 150 pCi/gm. Petrocomp suggest that limiting Lead-210 concentrations to no less than 30 pCi/gm will afford the public and the environment an adequate degree of protection.

Paragraph F9: Should it be discovered that waste containing TENORM at or above 5 pCi/gm

It is not clear that the 5 pCi/gm is net with the Ra-226 and Ra-228 contributions from natural soil background subtracted. Petrocomp suggest that the following be inserted after 5 pCi/gm " with the Ra-226 and Ra-228 contributions from natural soil background subtracted".


Paragraph I.1: Waste placed or disposed in the landfill shall be less than 5 pCi/gm Ra-226 plus Ra-228 and less than 5 pCi/gm Lead-210.

It is not clear that the 5 pCi/gm is net with the Ra-226 and Ra-228 contributions from natural soil background and from those materials utilized in the composting process subtracted. Petrocomp suggest that the following be inserted after 5pCi/gm "net with the Ra-226 and Ra-228 contributions from natural soil

background and from those materials utilized in the composting process subtracted".

Please take these comments into consideration when finalizing the above stated permit.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Dale Leivestad", written over a horizontal line.

Dale Leivestad/President
D&M Water Service, Inc.

D&M Water Service, Inc

◆
Petrocomp

◆
**Precision
Maintenance
& Machine**



**PO Box 848
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Baker, MT 59313**

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MACHINE WORK

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REMEDIATION

March 8, 2010

Scott A. Radig, P.E., Director
North Dakota Department of Health
Division of Waste Management
918 East Divide Ave., 3rd Floor
Bismarck, ND 58501-1947



Re: Permit #0357 for a Solid Waste Management Facility – Petrocomp, A division of D&M Water Service, Inc.

Mr. Radig,

Please submit the enclosed documents into Public record. Enclosed documents are as follows:

- Documents from the Bank of Baker, Baker, MT 59313
 - A. Letter of Support – Petrocomp, A division of D&M Water Service, Inc.
 - B. Letter of Support – Dale Leivestad/President of D&M Water Service, Inc.
 - C. Letter explaining "Letter of Credit"
- Agenda used at the Public Meeting and the Public Hearing held on March 4, 2010 in Bowman, ND. Agenda includes notes discussed and reviewed at the meeting and the hearing.
- William J. Delmore's CV. Mr. Delmore is Petrocomp's Attorney.

Respectfully Submitted,

Dale Leivestad/President
D&M Water Service, Inc.

Going the Distance Safely... And Still Growing



The Bank of Baker

116 S. Main • PO Box 739 • Baker, MT 59313-0739
Phone (406)778-3382 • Fax (406)778-3385

March 4, 2010

North Dakota Department of Health
Division of Waste Management
918 East Divide Avenue, 3rd Floor
Bismarck, ND 58501-1947

RE: Petrocomp, a Division of D&M Water Service, Inc.

To: Scott A. Radig, P.E., Director:

This letter will introduce our good customer Petrocomp/D&M Water Service, Inc. They have been a customer in good standing with the Bank of Baker for many years dating back to 1986. Their relationship with the Bank of Baker includes a lending relationship that has had debt outstanding in excess of \$950,000.00 and deposit accounts with balances averaging in excess of \$275,000.00. Petrocomp/D&M Water Service, Inc. have handled their accounts in a satisfactory manner, always paying debt in full prior to maturity. Rest assured that Petrocomp/D&M Water Service, Inc will fulfill their obligations to your satisfaction. Please feel free to contact our bank if you have any questions.

Sincerely,

Norton Walker
Vice President



The Bank of Baker

116 S. Main • PO Box 739 • Baker, MT 59313-0739
Phone (406)778-3382 • Fax (406)778-3385

March 4, 2010

North Dakota Department of Health
Division of Waste Management
918 East Divide Avenue, 3rd Floor
Bismarck, ND 58501-1947

RE: Petrocomp, a Division of D&M Water Service, Inc.
Dale Leivestad

To: Scott A. Radig, P.E., Director:

This letter will introduce our good customer Dale Leivestad. He has been a customer in good standing with the Bank of Baker for many years dating back to 1989. His relationship with the Bank of Baker includes a lending relationship that has had debt outstanding in excess of \$250,000. This does not include his business debt which has exceeded \$950,000.00. Mr. Leivestad handles all of his accounts with the Bank of Baker in a satisfactory manner. Please feel free to contact our bank if you have any questions.

Sincerely,

Norton Walker
Vice President



The Bank of Baker

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Phone (406)778-3382 • Fax (406)778-3385

March 4, 2010

North Dakota Department of Health
Division of Waste Management
918 East Divide Avenue, 3rd Floor
Bismarck, ND 58501-1947

RE: Petrocomp, a Division of D&M Water Service, Inc.

To: Scott A. Radig, P.E., Director:

Petrocomp/D&M Water Service, Inc. has received a commitment from the Bank of Baker to fund the necessary bond requirements for their waste disposal project being considered in Bowman County, North Dakota. The Bank of Baker will provide a letter of credit in lieu of a bond in an amount up to \$600,000.00. We trust this will be sufficient to meet your requirements that will allow for the completion of the project.

Please feel free to contact our bank if you have any questions.

Sincerely,

Norton Walker
Vice President

SOLID WASTE LANDFILL

PUBLIC INFORMATION MEETING AND PUBLIC HEARING



March 4, 2010

**4:00pm and 7:00
pm**

**City Hall,
Bowman, ND**

AGENDA

1. BACKGROUND – HISTORY –

- Overview of Petrocomp / Montana -
- Where is the site? Dale Leivestad
(7 Minutes) - Page 3.
- Overview of site selection – Bob Yost
(5 Minutes) - Page 3-4.

2. TEAM OF EXPERTS INVOLVED IN DESIGN PROCESS – Bill Delmore (10 Minutes) Page 4 -7. (CV's in Red)

(Flow Chart will be posted)

3. COMPOST TREAT FACILITY & PROCESS – Design and Safeguards Steve Ike (5 Minutes) Page 7.

4. SPECIAL WASTE LANDFILL – Steve Ike (1 Minute)

- NDDH's definition of Special
Waste Landfill.

5. FINANCIAL ASSURANCE – TBD (1 Minute)

- Followed protocol assessed by the
ND Department of Health

6. NON-TECHNICAL ISSUES - Bill Delmore (5 Minutes)

- Jobs created
- Taxes paid to county

**Dr. L. Max Scott and Bob Yost will be present to
answer questions within their scope of expertise.**

Notes:

OVERVIEW OF PETROCOMP:

Dale submitted his notes into Public Record the night of the meeting.

WHERE IS THE SITE? N ½ of Section 8, Township 130 North, Range 106 West, Bowman County, North Dakota. (18 Miles South of Marmarth, North Dakota, just past Continental's Big Gumbo Battery)

HOW THE SITE WAS SELECTED?

MEMO

To: Dale Leivestad, Petro-Comp
From: Bruce G. Langhus, Ph.D., ALL Consulting
Date: November 20, 2008
Subject: Commercial Oil and Gas Landfill Site

This memo will describe the efforts that went into the selection of the site for your proposed landfill. Most of this work was done in 2006 when we scoured the area in SW examining Pierre Shale outcrops. We used the state surface geology maps to zero in on the Pierre because this thick marine shale contains no aquifers and is essentially impervious to downward percolating fluids; a substrate of Pierre Shale would be most appropriate for a landfill.

Using state surface geology maps pointed us to approximate locations but many of these locations were occupied by floodplains of small rivers and creeks in the area. Because the shale is easily eroded, creeks sometimes will follow the outcrop band of the Pierre. We could follow the Pierre on the ground by two indicators, the dark gray soft shale and the presence of the large oval concretions. In particular, we used the contents of the concretions to find the Upper Pierre so that we were sure that there was a full thickness of massive

shale beneath the surface. Concretions in the upper part of the Pierre contain small, ribbed ammonites such as *Discoscaphites*; concretions beneath the upper Pierre contain pelecypods such as *Buchia* or are barren of fossils.

At the same time we sought a geomorphic setting that would not receive excessive runoff. This led us to look for upper Pierre on top of a flat hill separated from alluvial material. The proposed landfill is just such a location. Large concretions with ammonites are present near the top of the hill. No sandy or silty layers are present on the hillsides so there should be no conduits carrying infiltrate out of the landfill as springs. And there are no alluvial bodies on the top of the property, only thin, scattered terrace gravels much thinner than will be removed from the landfill areas.

The location has the added advantage of being near a blacktop highway that will facilitate traffic. Of course the landfill site needed to be located on private land rather than federal land so that title could be purchased. We think that this location is one of the finest in this corner of the state.

TEAM OF EXPERTS:

Owner Representatives – Petrocomp

Dale Leivestad, President

D&M Water Service, Inc.

Started in Trucking business in 1979, leasing a truck; dba Dale's Oilfield Service, Inc. Between 1981 and 1986 Dale formed D&M Water Service, Inc. with Partner Monte Smith and purchased John's Oilfield Service, Inc. in Baker, MT. In 1990 Dale purchased remaining shares from his partner becoming Sole owner of D&M Water Service. In 1992 he purchased equipment and shop from Eiker, Inc. of Glendive, MT expanding D&M's customer base through Sidney, MT. In conjunction with the Coral Creek Landfill in Fallon County, Montana, Dale started composting exempt oil field liquid and solid wastes in 1993. In 2006 Dale converted an abandoned oil well to a Salt Water Disposal Well, Plugged and abandoned a Salt Water Disposal well in compliance with Montana Oil & Gas rules and completed another Salt Water Disposal well North of Baker. Dale has also developed a centrifuge facility for handling exempt liquid wastes. D&M currently employs 28 people.

Geologist (Site Selection)

Dr. Bruce Langhus, Ph.D., CPG

ALL Consulting

Bruce was Lead geologist and hydrologist for ALL Consulting; he holds three degrees in Geology including a Ph. D. He has over 40 years' experience in petroleum exploration and production including work in conventional oil and gas, CBM, and coal geology. Before becoming a consultant he directed the Oklahoma Corporation Commissions' underground injection program. He commonly consults to major oil companies on exploration and production technologies including innovative produced water management. Dr. Langhus has served as Project Manager, Chief Hydro-geologist, and Senior Reviewer for several Environmental Investigations and Remediation Investigations. Dr. Langhus directed a multi-state regulatory cost reduction effort aimed

at the up-stream oil and gas industry; he is an authority on economical management of waste water.

Civil Engineering

Steven P. Ike, P.E.

AmeriTech Engineering Corporation

P.O. Box 1796

Williston, ND 58802

Steve obtained an Associate of Arts degree from the University of North Dakota in 1973 and a Bachelor of Science Degree in Civil Engineering from North Dakota State University in 1975. Steve was a Senior Engineer with Webster, Foster & Weston from 1975 to 1990. He is currently President, Engineer/Manager with AmeriTech Engineering. Steve prepares environmental assessments, technical specifications, and detailed designs for various projects including, water systems, wastewater systems, and municipal solid waste landfills. Steve participates in programs sponsored by the American Water Works Association, the National Water Well Association and Ohio State University, The Montana State Department of Health and Environmental Sciences, the University of North Dakota, North Dakota State University, the University of Wisconsin/Madison, Environmental Systems Research Institute, Inc., and Red Vector.

Geotechnical Engineering

Joel Zeltinger, P.E.

Zeltinger Geotechnical Engineering, P.C.

8916 White Spruce Road

Bismarck, ND 58503

Professional Engineer and owner of Zeltinger Geotechnical Engineering, PC

Hydro geologist

Roger Schmid

Water Supply, Inc.

2501 Twin City Drive

Mandan, ND 58554

Hydro geologist and owner of Water Supply, Inc.

Driller/Monitoring Well Installation

Curt Houle

T&C Drilling, Inc.

P.O. Box 1012

Mandan, ND 58554

Certified Monitoring Well constructor, owner of Town & Country Drilling.

Soil Surveyor

C.J. Heidt

Prairie Soil Consulting, LLC

4525 Hillsboro Drive

Bismarck, ND 58503

Registered Professional Soil Classifier, Certified Professional Soil Scientist/Soil Classifier, and Certified Professional Wetland Scientist, partner in Prairie Soil Consulting, LLC.

Radiation Consulting/Training

Dr. Max Scott

Dr. Scott has over forty-eight years of applied health physics experience. The majority of his experience has been associated with health and environmental implications of naturally occurring radioactive material (NORM), and various phases of the nuclear fuel cycle. He has published over thirty papers dealing with internal radiation dosimetry and NORM. He has served on Health Physics Society committees concerned with internal dosimetry and NORM. Dr. Scott is a graduate of Texas A&M University and Purdue University, a diplomat of the American Board of Health Physics and has been elected to Sigma Xi. He is a fellow and member of the Health Physics Society and serves(ed) on the American National Standards Institute Radiation Protection Committee, the European Organization for Economic Cooperation and Development Task Group on Release Measurements, and the Council of Radiation Control Program Directors Advisory Committee on NORM. Dr. Scott has been designated as a technical expert by the International Atomic Energy Agency. For 20 years he taught undergraduate and graduate levels courses in Nuclear Science. Dr. Scott has served as health physicist on remediation projects ranging from petroleum equipment storage yards to sites involving over 10 acres of contamination soil including several buildings. Currently, Dr. Scott is the Radiation Safety Officer and retired Adjunct Associate Professor of Physics and Astronomy at Louisiana State University.

Property/Boundary Survey

John Paulson, R.L.S.

Brosz Engineering, Inc.

P.O. Box 357

Bowman, ND 58623

Land surveyor with Brosz Engineering, Inc.

Consultant

Bob Yost/Vice President

A-1 Organics

A1 Organics is a 36 year old commercial composting company located in Colorado and Las Vegas Nevada, composting in excess of 500,000 cubic yards of material per year.

Bob Yost is vice President of A1 and has been responsible for the Design and Operations Plans, Site plans, Site Layouts, regulatory compliance, and environmental compliance aspects of A1's 5 commercial composting facilities in Colorado and Nevada. He has performed the same duties for other companies and entities as a consultant.

Bob and A1 are members of the United States Composting Council. A1 was recognized as the USCC Composter of the Year in 2007. A1 was also recognized by the Colorado Department of Public Health and Environment-Environmental Leadership Silver Partner Award Recipient in 2008.

Attorney
William J. Delmore
Kelshch, Kelsch, Ruff & Kranda

Water and Soil Laboratories
Minnesota Valley Testing Labs, Inc.

COMPOST WASTE TREAT & FACILITY

Site Design and Environmental Safeguards

- Earthen berms – Run-on / Run-off
- Clay cut-off walls where gravel encountered at berms
- 3' Compacted clay liner (exceeds NDDH requirements)
- Storm water holding pond
 - ♦ 100 year – 24 Hour Storm event vs. 25 year – 24 hour storm event
- Contact water – evaporation, dust control, used in treatment process, irrigation, or hauled off-site to disposal well

WILLIAM J. DELMORE

Mr. Delmore has extensive experience in Environmental Law. He has been trained at the National Judicial College (NJC) as a hearing officer and has served as faculty advisor on two occasions at the NJC regarding administrative hearing training. Mr. Delmore has served as legislative coordinator for the Environmental Health Section of the State Department of Health for 10 legislative sessions. Mr. Delmore has also served as attorney for professional boards controlling licensure of several different occupations. Mr. Delmore has public health experience and has conducted several workshops concerning zoning.

PROFESSIONAL EXPERIENCE

1998 - Present Kelsch, Kelsch, Ruff & Kranda, Mandan, North Dakota
1987 - 1998 Assistant Attorney General, North Dakota, Director - Office of Environmental Enforcement
1977 - 1997 North Dakota Department of Health, Director - Environmental Enforcement
1975 - 1977 Assistant Attorney General

EDUCATION

College: University of North Dakota, 1966-1970;
Yale Law School, 1970-1975
Harvard University (Hudson Fellowship), 1972-1973
Associate to Professor Irvine Child, Humanistic Psychologist, Yale University
High School: St. Mary's High School, 1966

BAR MEMBERSHIPS AND ASSOCIATIONS

Inquiry Committee West
North Dakota State Bar Association
National Association of Attorneys General
Midwest Attorneys General Acid Rain Committee
Midwest Environmental Enforcement Association
National Judicial College, Faculty Advisor
Western Governors' Association
Member EPA - State Superfund Policy Sub-Group
Member EPA - Forum on State and Tribal Toxics Action (FOSTTA)

LICENSED TO PRACTICE

US Supreme Court
8th Circuit Court of Appeals
US District Courts of North Dakota
North Dakota Supreme Court
North Dakota State District Courts

COMMUNITY LEADERSHIP/INVOLVEMENT

Bismarck City Commission, 1984-1988
American Heart Association, Missouri River Division, President, 1989-1990
Burleigh County Commissioner, Chairman 2000, 1990-2002

PERSONAL INFORMATION

Born: Hot Springs, South Dakota
Parents: William E. and Dorothy Delmore
Married: Stephanie (Lundberg) Delmore
Children: Cole and Shane
Interests: Old Movies, Trivia, Hunting

BADLANDS CONSERVATION ALLIANCE

Badlands Conservation Alliance
Field Office
801 North 10 Street
Bismarck, ND 58501
701-255-4958 badlandsconservationalliance.org

March 9, 2010

Scott A. Radig, P.E., Director
North Dakota Department of Health
Division of Waste Management
918 East Divide Avenue, 3rd Floor
Bismarck, ND 58501-1947

RE: Draft Permit for Petrocomp Oil Waste Facility in Section 8, T130N, R106W, Bowman County, ND

Dear Mr. Radig:

Badlands Conservation Alliance (BCA) is a non-profit organization focused on public lands in western North Dakota. We feel strongly that this proposed project is applicable to our mission, both as it affects the Little Missouri State Scenic River and the Bureau of Land Management acreage immediately to the south and west of this proposed site in Section 8, T130N, R106W, Bowman County, North Dakota.

We find fault with two aspects of this project: the background history of the company making this application, Petrocomp, Inc., and the site location.

It is apparent by the scrutiny, time and revision put forth by the ND Department of Health that this is a project requiring careful consideration. Possible impacts are not to be taken lightly. Therein, it is equally notable that if further such oil waste disposal sites are indeed needed in North Dakota, the party pursuing such an endeavor should be of the highest caliber with a significant history of best management practices. Petrocomp's track record is quite the opposite and this permit should be denied.

BCA is also concerned with the proposed site for several reasons:

- The proposed project area is located immediately to the north (within .09 miles) of the Bureau of Land Management Area known locally as The Big Gumbo Area. This area is significant for its habitat for sage grouse. While the Interior Department did announce last Friday, March 5th that the sage grouse would not be listed at this time under the Endangered Species Act, Interior Secretary Salazar confirmed that such listing is warranted.

The #1-rated lek in North Dakota exhibiting the highest male spring count for sage grouse is within 1.13 miles of the proposed Petrocomp facility. The ND Health Department should disallow this Petrocomp facility which could be a contributing factor in pushing the species toward listing.

- Vicinity soils do not merit a safe harbor for the Petrocomp project. While the Department has made recommendations to address the permeable sands and gravels underlying the Oburn Complex on the site ridge top, such action is not insurance against the active erosion that is a significant characteristic of the proposed site, and Oburn soils have poor reclamation values. Dilt and Lisam soils on nearby slopes and the absence of pedogenetic horizons illustrate the rapid and continual erosion so much a part of Badlands geology. The Pierre shale that is a source of these soils is highly mineralized with sodium salts and aluminum salts with an acid reaction due to the high sulfur rate.
- Furthermore, intermittent drainage ways roughly 300 feet to both the north and south of said ridge are in danger of contamination. Running within .35 miles from the site, Big Gumbo Creek drains a significant area in both Montana and North Dakota, with typical spring run off and summer flood events being a routine and normal aspect of the landscape. These drainages all feed into the Little Missouri State Scenic River only 1.4 miles distant.
- Petrocomp has not addressed the requirements of a Radioactive Materials Program and has not addressed screening for Lead.

Even with the best of practices, for which this applicant has instead proven negligent, accidents happen. Petrocomp's history of non-compliance, and the geological character of this proposed site warrant denial of this application for permit. Risk to North Dakota resources, to local landowners and to communities supports denial of this proposed action.

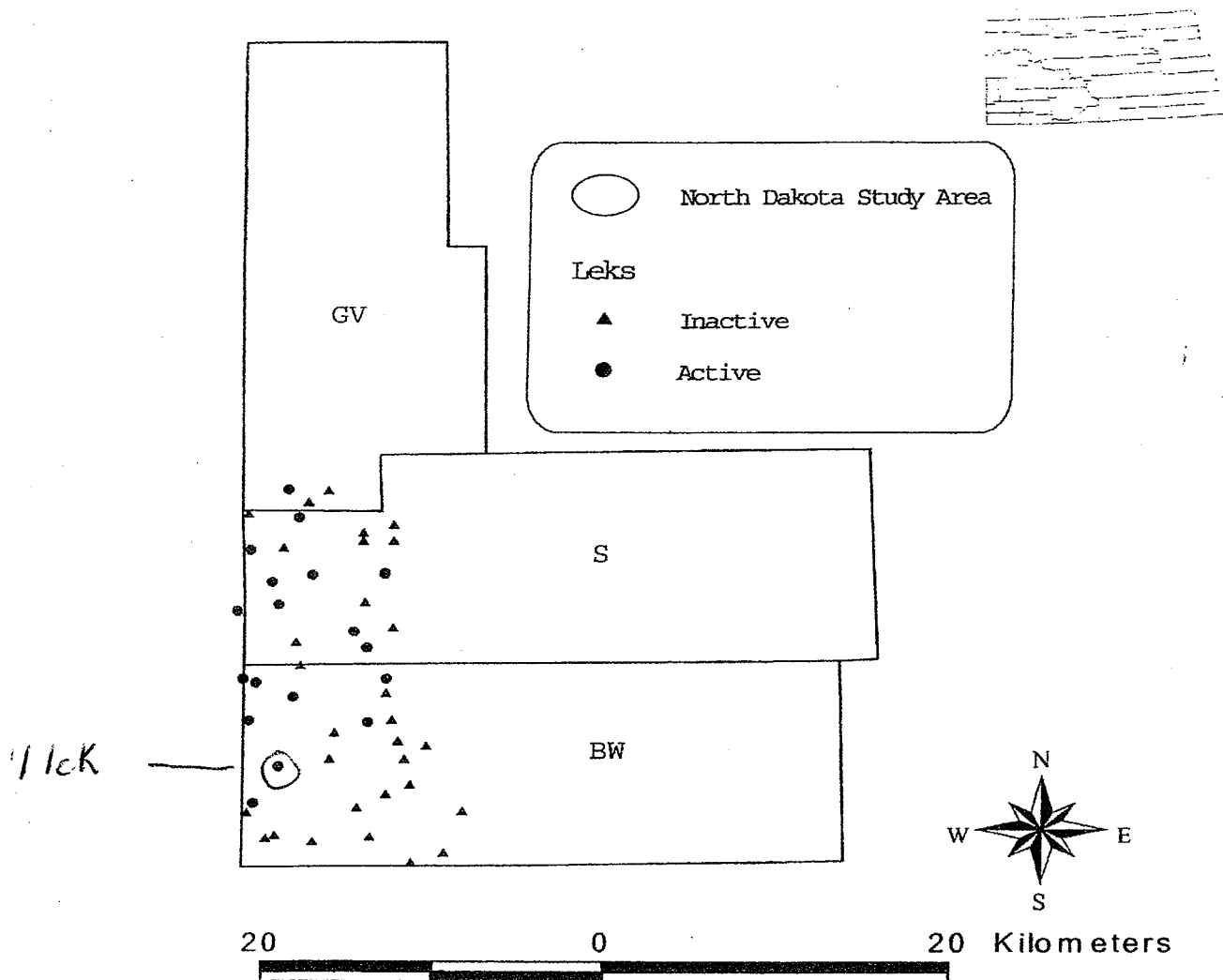
Respectfully,



Jan Swenson, ED
Badlands Conservation Alliance

Map Attachment: ND Game and Fish Department Greater Sage Grouse Management Plan and Conservation Strategies, Section I: Status of Sage Grouse, page 7, Figure 2. Active and inactive lek locations in North Dakota 2002.

Figure 2. Active and inactive leks locations in North Dakota, 2002



From: Smith 2003

Habitat Status

A clear-cut example of the importance of habitat to a wildlife species is illustrated by the life history of the sage-grouse. In North Dakota and other areas of western United States, this grouse is found only where big sage and closely related plants are growing. Many early travelers noted the grouse-sagebrush relationship. Roosevelt wrote that the bird was found "only where the tough, scraggly wild sage abounds, and it feeds for most of the year on sage leaves." Another early observer, Captain Bendire,

<http://gf.nd.gov/conservation/sage-grouse-plan.html>
 NDGF Greater Sage Grouse Management Plan and Conservation Strategies
 Section 1: Status of Sage Grouse page 7



**SIERRA
CLUB**
FOUNDED 1892

North Dakota Office
311 E Thayer Ave. STE 113
Bismarck ND 58501
701-530-9288 fax 530-9290

March 12, 2010

Scott A. Radig, P.E. Director
ND Department of Health
Division of Waste Management
918 E. Divide Avenue, 3rd Floor
Bismarck, ND 58501-1947

Re: Petrocomp solid waste facility, Bowman County, ND

Dear Mr. Radig:

I am writing on behalf of Dacotah Chapter of the Sierra Club (Chapter) concerning the proposed solid waste facility in Bowman County, North Dakota. The Chapter has some concerns regarding the issuance of a permit to Petrocomp at the proposed site.

The permit applicant has an established track record in managing a similar facility in Montana which must be carefully considered before granting the requested permit. An October 5, 2007 informational packet received by the North Dakota Department of Health (NDDH) from Fallon County, MT contains a laundry list of management problems associated with Petrocomp's Fallon County Landfill facility. The applicant walked away from that operation and Fallon County states that: "they did incur substantial expense cleaning up the Fallon County Landfill site." When considering a manager/operator of a facility that deals with materials that have the potential to cause harm to public health and the environment, as this facility will, common sense dictates that you would require that individual or company to have impeccable credentials in order to minimize the risk of catastrophic consequences. Clearly, Petrocomp and Dale Leivestad's incompetence in operating the Fallon County Landfill proves them unqualified and undesirable to operate a similar facility in Bowman County, no matter how much they say that they have changed. There is a very real and valid question as to their ability to properly and safely run the proposed Bowman facility. We should not be gambling with the public and environmental health of our state to see if Mr. Leivestad and Petrocomp "have learned their lesson."

It is my understanding that if a permit is issued and Petrocomp begins operations that the company would conduct self-inspection and reporting. Again, given this applicant's track record in Montana, a permit should not be issued unless the NDDH can identify dedicated funds within its budget to provide personnel or a qualified third party to conduct the necessary inspection and reporting. The NDDH's proposed safe guards of granting a 3-year permit instead of a 10-year permit and increasing inspection if a

problem arises are wholly inadequate given the potentially disastrous consequences to the public once these problems occur. In fact, the reasoning behind granting the shorter 3-year permit seems like a containment scenario in lieu of using inspections as a prevention tool as evidenced in section III.A. Compliance Assurance Issues of the Public Notice of Opportunity to Comment document: "While the owner/operator has not committed to discontinue waste acceptance until any problems are resolved, the limited permit duration would also cap compliance issues if they persist." This amounts to closing the barn door after the horse is gone.

The site that Pertocomp has chosen to build and operate the proposed facility is unsuitable for such a facility. It is "Badlands" and "dissected by intermittent drainage ways flowing into nearby creeks and the Little Missouri River," a State Scenic River. The January 17, 2008 Site and Compliance Review identified "sparsity of SPGM and vegetation, surface water runoff, erosion, and related issues. Areas characterized by well-developed erosional features such as gullies and ravines are not well suited for solid waste facility development."

NDAC Section 33-20-04.1-01 General location standards states in part:

1. No solid waste management facility may be located in areas which result in impacts to human health or environmental resources or in an area which is unsuitable because of reasons of topography, geology, hydrology, or soils.
- 2a. The following geographic areas or conditions must be excluded in consideration of a site:
 - (5) On the edge of or within channels, ravines, or steep topography whose slope is unstable due to erosion or mass movement...

The applicant's purported "solutions" to mitigate the identified problems associated with the proposed site provide no guarantee or even assurance that the potential impacts to human health and environmental resources, due to the site's unsuitability, will not occur.

Given the problematic track record of this applicant and the unsuitability of the proposed site location, Dacotah Chapter respectfully requests that Petrocomp's permit application be denied. Thank you for the opportunity to comment on this proposal.

Sincerely,



Wayde Schafer
Regional Representative
Dacotah Chapter of the Sierra Club
311 East Thayer #113
Bismarck, ND 58501
701-530-9288

Mr. Radig,



I am writing in regard to Mr. Leivestad's application for a waste site in S.W. Bowman County.

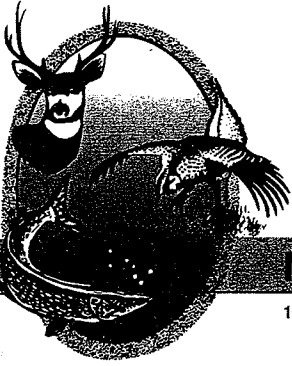
I have concerns with the location of the site - highly erodable soil - drainage area within a mile of the Little Missouri River. - many environmental issues - none which were dealt with in Montana. Will he do any better 35 miles from home? He could not or would not comply with Montana requirements. What has he done to make you think he is capable now?

For being a business man of 20 + years, he could not explain his plans. He had to have 4 paid professional men speak for him!

I fail to see any benefit to North Dakota by approving his application. Does public opinion mean anything? The only person in favor works for D.M.

The biggest indicator of a person's future behavior is past behavior. Mr. Leivestad's lack of creditability should be basis for denial.

Norma Jean Peterson
Box 661
Bowman, N.D.
58623



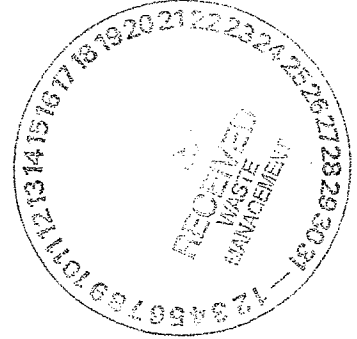
"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

Mar. 15, 2010

Scott A. Radig, P.E., Director
North Dakota Department of Health
Division of Waste Management
918 East Divide Avenue, 3rd Floor
Bismarck, ND 58501-1947



Dear Mr. Radig:

Re: Petrocomp's Application for a Permit for a Solid Waste Management Facility in Bowman County

Petrocomp is proposing the development of a solid waste management facility in a portion of Section 8, Township 130N, Range 106W in Bowman County. The proposed facility would be for the treatment and disposal of oil field exploration and production wastes and possibly other oily waste materials, and would include treatment piles (composting of oil field waste), a special waste landfill, and a surface impoundment for runoff from the piles and any leachate or contact water from the landfill.

The site proposed for development is approximately one mile from two active sage grouse leks (i.e. Sections 6 & 17, Township 130, Range 106), one being the largest active lek we have in the state. Additionally, the area around big gumbo creek is probably some of our best sage habitat in the state. Although a recent federal decision decided not to list the sage grouse as Threatened or Endangered it remains a candidate species for listing. As such, management agencies are strongly encouraged to minimize future actions that might impart deleterious impacts on sage grouse populations.

While it is difficult to gauge what the specific impacts from this project will be, we believe that valuable sage habitat may be lost as a result of converting existing habitat to project features (retention pond, compost area, road, etc.). Also, as the project will result in additional traffic and disturbance on a regular basis, various breeding and nesting activities could be negatively affected in this important area. We are providing these comments for your information and consideration on the above referenced permit.

Sincerely,

Michael G. McKenna
Chief
Conservation and Communications Division

March 13, 2010

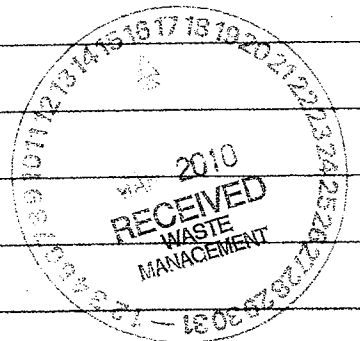
Dear Sir

My name is Mike H. Somsalla RT P.O. Box 192
MARMANTH, N.D. 58643. I would like to comment on
the solid oil waste landfill being proposed south
of MARMANTH in Bowman County. First I think it
is too close to the Little Missouri River, a
better suited site could be found. Second Dale
Loivestad has proven he is not responsible
enough to oversee a site like this - Per his
actions in Fallon Co. NV. Third if a permit is
granted the state needs to do inspections more
than monthly or every few months. Also the state
needs to collect the samples - not trust him to
~~take~~ take them. He has proven he is not to
be trusted to do that.

Sincerely yours

Mike H. Somsalla

Mike H. Somsalla
Box 192
MARMANTH, N.D. 58643



Tillotson, Steve J.

From: Molly Lyson [molly_lyson@yahoo.com]
Sent: Tuesday, March 09, 2010 9:06 PM
To: Tillotson, Steve J.
Subject: oil waste site in bowman county

Hi,

I would like to strongly urge the health department to reject a permit for D&M Water Service for a permit for the proposed oil waste site in Bowman County. The owner, Mr. Livestad, has shown he is irresponsible and untrustworthy given his record in Fallon County in Montana.

The site is also too close to the Little Missouri River. The engineers that planned the dikes and levees for New Orleans did not foresee what was possible of happening given the right circumstances. I believe the same could happen with this site.

Sincerely,
Molly Lyson



March, 9, 2010
16405 97th St SW
Rhame, ND 58651

ND Department of Health
Scott A. Radig, P.E.



Dear Sir:

I had the opportunity to attend the March 6, 2009 meeting at the Bowman City Hall on Mr. Dale Leivestad proposal of the development of a solid waste management facility.

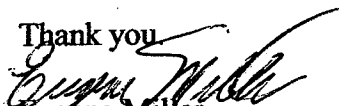
Not knowing the facts before the meeting, I wasn't ready to make a comment at that time.

I own and farm land about 1 ½ miles north of the proposed site and after hearing the information at the meeting and looking at other information about Mr. Leivestad, I feel he should be awarded the opportunity to continue with his business plan.

I know there is more impact to roads to haul the product to the site, but there is also oil well and pipelines in Bowman County area that can utilize a business like this if managed properly.

At the Hearing I felt there was an organized group against Mr. Leivestad plan that didn't listen to the information and had something against him personally.

Thank you


Eugene Miller

March 11, 20



Dear Mr. Tillotson,

I am writing to state my concerns about the oil field waste area being planned south of Marmarth. While I understand the need for this service I am very concerned with the gentleman that is going to be operating it and with how it is going to be monitored. I have visited with a Fallon County Commissioner and was informed that they feel that Mr. Leivestad sent in samples that were not from his actual operation causing the whole operation to get so far out of compliance that it was impossible to get it back on track. Having this information I would like to request that someone from the State is taking samples and checking the site monthly. I realize that this is a huge request from both the monetary and time standpoint but I also feel it is necessary. I understand that this could possibly be done by charging Mr. Leivestad for the inspections and sampling and I would like to suggest that this be done.

Please do not let another mess like they had in Montana happen in our state.

Thank You

A handwritten signature in cursive script that reads "Patti Perry".

Patti Perry
Marmarth City Commission President
Box 93
Marmarth, ND
58643